

All information received by the Department from returns filed under the Retailers' Occupation Tax Act, or from any investigation conducted under the Act, shall be confidential, except for official purposes. See 35 ILCS 120/11. (This is a GIL.)

November 21, 2000

Dear Xxxxx:

This letter is in response to your letter dated September 21, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Please let this letter serve as our official request for a 'Private Letter Ruling' pursuant to 86 Illinois Administrative Code CH. I. Sec. 130.1001.

We have operated the EVENT for twenty years, at the Fairgrounds in CITY, Illinois. As the show promoter, we have always supplied a copy of the special event tax collection form to each vendor. **(Item #1.)** Our rules and regulations address the retailer's tax form. **(Item #2.)** Our monthly news letter is given to each vendor at the show, it also addresses the tax issue. **(Item #3.)** We also print and distribute a tax schedule for the 6.5% tax in NAME County. **(Item #4.)**

The Fair Grounds, was recently incorporated into the Village of CITY, IL. The Village of CITY, is not a home rule community and does not receive more than 60% of its general tax revenue from Use Tax Act. The Village has acted without legal authority. It is requiring that every show promoter, hosting events at the Fair Grounds, collect a copy of the Illinois Department of Revenue, Special Event Tax Collection Form, from each vendor. Failure to do this will result in that show's special use permit being canceled.

Our attorney, PERSON, wrote an opinion letter to the Fair Board's attorney, PERSON2. **(Item #5.)** I have enclosed a letter from the Village of CITY demanding the collection of the Retailers Tax Form. **(Item #6.)** I have also enclosed a letter from the Fair Board to me reference the collection of the tax forms and the penalty for failure to comply. **(Item #7.)** I have also enclosed a copy of 'Addendum B' the Temporary Use Permit, and agreement between the Village of CITY and the Fair Board. **(Item #8.)** I have also enclosed a copy of the letter we received from the Village of CITY. **(Item #9.)** The final enclosed item is a letter from my attorney to PERSON3 Counsel for the Village of CITY, IL. **(Item #10.)**

I am requesting a binding private letter ruling on the following issues:

- #1. Is the Village of CITY acting within the scope of its authority?
2. Is it Illegal for the Village of CITY, to obtain the copies of the Illinois Department of Revenue, Special Event Tax Collection Form? (Item #1)
3. Is it Illegal for a person, who is not an agent/employee of the Illinois Department of Revenue, to collect completed copies of the Illinois Department of Revenue, Special Event Tax Collection Form? (Item #1)

Thank you for your prompt attention in this matter, we need to resolve this issue as soon as possible. Several vendors have refused to submit these forms and have stated it is illegal for the Village CITY, to request this information.

Section 2a of the Retailers' Occupation Tax Act, 35 ILCS 120/2a, makes it unlawful for any person to engage in the business of selling tangible personal property at retail in Illinois without first obtaining a certificate of registration from the Illinois Department of Revenue. This applies to all persons whether they sell at swap meets, flea markets, or as transient vendors along the roadside.

The Department sometimes has collection officers at Illinois swap meets and flea markets who are authorized to collect and provide receipts for Retailers' Occupation Tax incurred at the event. Any such tax liability paid directly to a Department collection officer that is evidenced by a receipt need not be reported to the Department on a return. See the enclosed copies of 86 Ill. Adm. Code 130.2045, 130.501 and 130.510.

The confidentiality provisions of the sales tax acts govern the sales tax returns. Section 11 provides, in part, as follows:

"All information received by the Department from returns filed under this Act, or from any investigation conducted under this Act, shall be confidential, except for official purposes, and any person who divulges any such information in any manner, except in accordance with a proper judicial order or as otherwise provided by law, shall be guilty of a Class B misdemeanor.

* * * *

Nothing in this Act prevents the Director of Revenue from divulging to the United States Government or the government of any other state, or any village that does not levy any real property taxes for village operations and that receives more than 60% of its general corporate revenue from taxes under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act, or any officer or agency thereof, for exclusively official purposes, information received by the Department in administering this Act, provided that such other governmental agency agrees to divulge requested tax information to the Department.

* * * *

The furnishing of financial information to a home rule unit that has imposed a tax similar to that imposed by this Act pursuant to its home rule powers, or to any village that does not levy any real property taxes for village operations and that receives more than 60% of its general corporate revenue from taxes under the Use Tax Act, the Service Use Tax

Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act, upon request of the Chief Executive thereof, is an official purpose within the meaning of this Section, provided the home rule unit or village that does not levy any real property taxes for village operations and that receives more than 60% of its general corporate revenue from taxes under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act agrees in writing to the requirements of this Section.

* * * *

Information so provided shall be subject to all confidentiality provisions of this Section. The written agreement shall provide for reciprocity, limitations on access, disclosure, and procedures for requesting information.

* * * *

Nothing contained in this Act shall prevent the Director from divulging information to any person pursuant to a request or authorization made by the taxpayer or by an authorized representative of the taxpayer."

As set forth in Section 11, the information gathered by the Department through tax returns is confidential. This information can be disclosed by the Department to home rule municipalities that have enacted taxes similar to the State sales tax or to any village that does not levy any real property taxes for village operations and that receives more than 60% of its general corporate revenue from taxes under the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. The local government unit must have an official purpose for requesting the information and is held to the same confidentiality provisions as the Department.

Another way that the return information can be disclosed by the Department is if the taxpayer or an authorized representative requests and authorizes the Department to release this information to a third party.

If there is no agreement between the Department and a local government unit or if the taxpayer does not authorize disclosure of the return information, then the Department is forbidden to disclose the information under the statute.

As you can see, the provisions of Section 11 prohibit the Department of Revenue from unauthorized disclosure of tax return information. However, Section 11 does not prohibit the disclosure of tax return information by the taxpayer, himself; nor does it prohibit other governmental bodies from requesting such information directly from the taxpayer.

While we are unaware of a statute specifically authorizing municipalities to request tax return information from taxpayers, it is beyond the scope of authority of this agency to make determinations regarding the propriety of such requests.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours

Martha P. Mote
Associate Counsel

MPM:msk
Enc.